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### **Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council Meeting #4**

Monday, June 17, 1996  
9:30 am - 3:30 pm  
Honolulu Interisland Terminal  
Room #4, 7th Floor

### ***Meeting Minutes***

#### Attendance

SAC Members present: Maile Bay, Hannah Bernard, Herman Chong, Jr, Beth Goodoni, Walter Haas, June Harrigan-Lum, Marc Hodges (for Keoni Fairbanks), Greg Kaufman, William Lennan II, Jim McCallum, Lt. Michael Neininger, Paul Nachtigall, Francis Oishi, Gregory Pai, Robert Schroeder, Glenn Soma, Claud Sutcliffe. Excused: Stan Butler, James Coon, Louis Herman, Thelma Kia-Shimaoka, Donna Liddicote, Craig MacDonald, Jan Pinney, Skip Weinstein

Others present: NOAA/SRD: Terry Jackson, Todd Jacobs, Naomi McIntosh, Jean Souza, Allen Tom. NOAA/NMFS: Gene Nitta

OSP: Brian Burnett, Dick Poirier.

Hawaii County Planning: Darren Arai

Public: Marc Carmichael, Chris Evans, Scott Hamilton, Molly Hurst, Adam Pack, Krist West

#### Distributed Materials

- Agenda
- Letter from Jim Coon, SAC Chair
- Letter from Gary Magnuson, NOS, Constituent Affairs.
- Printed materials from the Hawaiian Islands Humpback Whale NMS
- Research in the Hawaiian Islands Humpback Whale NMS 1996

#### Welcoming Remarks -- Dr. Paul Nachtigall and Allen Tom

Allen Tom informed the SAC, that Jim Coon, SAC Chair had been injured and today's meeting would be chaired by the Vice Chair, Paul Nachtigall.

Greg Kaufman expressed concern about how the SAC meetings were being publicized and that public attendance at the SAC meetings were very small. Mr. Kaufman expressed his desire to see more public attendance at the SAC meetings and more effort to hold SAC meetings on the neighbor islands (Maui, Kauai and/or Big Island).

## DRAFT

Mr. Tom informed the Council, that notices to the media announcing the SAC meetings were sent out by Sanctuary staff and more effort will be made to hold SAC meetings on the neighbor islands.

Todd Jacobs, Olympic Coast Sanctuary Manager, pointed out that public attendance at the Olympic Coast SAC meetings have been very small as well (about 2 or 3 members of the public). Meetings are also publicized and meeting locations are rotated along the coast.

### Overview of Olympic Coast National Marine Sanctuary -- Todd Jacobs, Sanctuary Manager

Mr. Todd Jacobs began with a description of the Olympic Coast National Marine Sanctuary. The Sanctuary was designated in July 1994. Its boundary covers an area of approximately 3,300 square miles, extending 135 linear miles from Cape Flattery to the mouth of the Copalis river. Along the Olympic Coast, adjacent to the Sanctuary is the Olympic National Park, three National Wildlife Refuges and the presence of four federally recognized Native American tribes (the Hoh, Makah, Quileute, and the Quinault). Significant resources of the Sanctuary include, rocky shores and seastacks, home to many different plants and animals; offshore islands inhabited by large colonies of seabirds; 29 species of marine mammals including sea otters, stellar sea lions, harbor seals, dolphins and whales; historical and cultural resources including Indian artifacts; petroglyphs, and numerous shipwrecks. Olympic Coast has 200 documented shipwrecks, the Sanctuary has assisted in research and documentation of some of these shipwrecks. Olympic Coast is a extremely productive commercial fishing area for salmon, steelhead, trout, halibut, pink shrimp, and dungeness crab.

Mr. Jacobs explained that the Olympic Coast has always been hazardous to ships and that a non-compulsory Area To Be Avoided (ATBA) for oil tankers and tank vessels carrying hazardous cargo was designated with input from the U.S. Coast Guard, NOAA, Washington State, the Native American tribes and the Shipping Industry, allowing for greater protection of the coastline from oil spills.

Mr. Claud Sutcliffe inquired about how native rights were protected by the Sanctuary? Mr. Jacobs explained that the historical and cultural resources of the Native American tribes are protected by the National Marine Sanctuaries Act, and moving, removing or injuring historical or cultural resources is prohibited under Sanctuary regulations. The Sanctuary has entered into a Memorandum of Understanding (MOU) with the tribes which contain provisions for making joint decisions. Sanctuary regulations do not abrogate treaty rights. Sanctuary regulations were worked out with both the State government and with the legal counsel from the four native tribes.

Mr. Jacobs continued by highlighting the policy goals of the Sanctuary, to

## DRAFT

promote non-consumptive uses, ecotourism, interpretive education, and encourage compatible uses of the resources (commercial fishing, kayaking, etc.). He informed the Council, of cooperative agreements with Olympic National Park and with the Native American tribes, which allowed the Sanctuary to provide funding for two visitor interpretation positions at the Park. Working with Washington State Parks, the Sanctuary also funded one educational interpreter position. To promote ecotourism opportunities, the Sanctuary is providing training to charter fishing boats, which otherwise sit idle, to do wildlife watching excursions.

Research activities include, nearshore seabird surveys, work with CVTS, whale photo identification studies, and physical oceanography studies. Recently, the Sanctuary acquired the use of the NOAA research ship, the MacArthur to assist with research in the Sanctuary for 13 days. The advantages of working on the MacArthur is to make access to the boat available to state, tribal, and private researchers and in kind support costs (\$12,000 a day to operate the MacArthur).

Mr. Nachtigall asked how NOAA determines who gets to use the research boat. Mr. Jacobs explained the research coordinator and the SAC Research Committee makes decisions based on proposals and requests and management goals. Ms. Hannah Bernard asked if the Sanctuary had funded any research being done by a SAC member. Mr. Jacobs recalled one such situation related to research studies being done as a result of a oil spill, very small scale (\$500.00).

The Sanctuary program works very closely with the U.S. Coast Guard. The Coast Guard conducts search and rescue operations, overflight enforcement, fisheries enforcement, marine safety and oil spill response within the Sanctuary. The Sanctuary has a MOU with the Coast Guard and workspace is provided for Sanctuary staff and vessels.

The Sanctuary has its own vessels, the Tatoosh, a 36 foot boat which supports research and education and a zodiac boat.

Other Sanctuary activities involve work related to the Tenyo Maru Oil Spill which occurred in 1991. The Sanctuary along with, the Department of Interior, the State of Washington and the Makah tribe is working to develop the Tenyo Maru Oil Spill Restoration Plan. The Sanctuary also coordinates the Marine Mammal Stranding Network and provides funding to support local educational events, like the Teacher at Sea Program.

Mr. Tom asked how many people does the Olympic Coast have on staff. Mr. Jacobs answered, currently five permanent staff members on board, (Manager, Asst. Manager, Research Coordinator, Education Coordinator, Administrative Asst.). Other staff members include a NOAA Corps Officer, three interpreter positions at the State and National Park, a graduate student intern, and a part time (30 hours/week) administrative position for the SAC.

## DRAFT

Mr. Kaufman inquired about the Olympic Coast NMS's current budget. Mr. Jacobs, answered, \$500,000 a year, does not include NOAA Corps position. Salaries = 1/3; \$30,000 for rent and supplies, the remaining funds gets allocated to research and education projects.

A question was raised regarding whether or not freighters were allowed in the Juan de Fuca Straits. Mr. Jacobs clarified, the ATBA only applies to oil tankers or vessels carrying hazardous materials. Mr. Marc Hodges asked if there were any other areas where vessels were not allowed? Mr. Jacobs answered, no but in Makah Bay, the U.S. Coast Guard prohibits vessels from anchoring in the bay because of numerous unidentified spills in the area. Mr. Oishi asked if there were any subzones within the Sanctuary. Mr. Jacobs remarked, the harbor is owned by the tribe and maintained by the ACOE.

Mr. Tom asked what are the Sanctuary regulations in the Olympic Coast Sanctuary. Mr. Jacobs provided a summary of the Sanctuary regulations which include

- Prohibition of oil and mineral development
- Prohibition on discharging in sanctuary without permit
- Prohibition of altering the seabed
- Prohibition of Department of Defense bombing (surface and subsurface military operations still occur)
- Overflights of 2000 feet anything less is a violation
- No prohibitions on fishing, recreation activities (although other agencies do, but not the Sanctuary)
- Incorporate the Endangered Species Act, and the Marine Mammal Protection Act.
- Higher civil penalties

Mr. Kaufman inquired about the presence of the NMFS within the Sanctuary. Mr. Jacobs outlined the basic regulatory regime within the Sanctuary. The National Park has its own enforcement presence, as does the U.S. Coast Guard. The MOU between the Coast Guard and the Sanctuary defines necessary Coast Guard actions and the Sanctuary does not impede those actions. The MOU ensures that the Coast Guard's actions will be conducted as to minimize any harm to wildlife. The NMFS investigates any violation of the NMSA within the Sanctuary. A NMFS enforcement officer is housed in the Sanctuary office building. Among his duties, is to coordinate with the Coast Guard on their activities and document violations.

A member of the SAC inquired if the Sanctuary has more enforcement now than before. Mr. Jacobs, answered, no, but there is more of an enforcement presence. Future goals for enforcement activities include DOI, NOAA, CG, NMFS and the Sanctuary possibly co-funding more education, enforcement, organization, with less emphasis on regulatory enforcement.

Mr. Jacobs continued his presentation and focused on the Olympic Coast

## DRAFT

Sanctuary Advisory Council. He held up a Handbook for the Olympic Coast SAC which contains among other things, the SAC charter and instructions on how conflicts will be addressed. The SAC is limited to only 15 members (the only SAC with so few members, due to its statute). He explained the SAC selection process which was done by a 7 panel selection committee (Sanctuary Manager, State Department of Ecology, State Department of Natural Resources and Four treaty tribes). SAC membership includes a seat for Citizen at large, education, research, conservation/education, Chamber of Commerce, Marine Business, Port/DOT, Olympic National Park, Department of Ecology, Department of Natural Resources, Four Tribes, and the County.

During the nomination the Sanctuary received 60 applications, the selection panel recommended three names for each seat solicited. The Sanctuary Manager made the final selections which were then sent to Jeff Benoit (OCRM Director for final approval). A question was asked by a SAC member if any protests were lodged against the SAC selection process. Mr. Jacobs, responded, only one protest was received because there was no representation on the SAC from a commercial fisherman. The Sanctuary received only one application from a commercial fisherman which was submitted late but still considered in the selection process. The SAC held its first meeting in January 1996. It was a facilitated meeting. The first meeting focused on the SAC's role. The second meeting was held for the election of officers. Subsequent meetings were on sanctuary issues and involved strategic planning for education. The SAC has formed a subcommittee on Education, Research and Geographical information systems. Staff provides follow-up for the SAC and detailed minutes are recorded. The SAC has a strong chair, who is also the citizen at large.

Mr. Herman Chong asked if the Sanctuary prohibits military operations from using live ammunition. Mr. Jacobs replied, yes but there are no military activities conducted in the sanctuary boundaries. Northeast of the sanctuary there are subsurface operations, DOD's limitation is only on live fire exercises. Mr. Chong inquired if the DOD negotiated areas to not be included in the Sanctuary. Todd answered, no they did not. The Sanctuary and DOD has had a good working relationship, DOD consults with the Sanctuary on its activities.

### Overview of Monterey Bay National Marine Sanctuary -- Terry Jackson, Sanctuary Manager

Mr. Jackson started with a description of the Monterey Bay Sanctuary. The Sanctuary was designated in 1992 and is the largest sanctuary in the national system. It consists of approximately 5000 square miles of surface area and stretches across 360 miles of coastline. The area is rich in natural resources and contains a variety of habitats. Over 26 species of marine mammals utilize the area for breeding, feeding and migration. There are over 360 species of fish and a variety of invertebrate species and deep sea creatures. Habitat areas include rich upwelling areas, sand flats, an expansive kelp forest and a large underwater canyon. Adjacent to the Sanctuary

## **DRAFT**

is the Elkhorn Slough National Estuarine Research Reserve. Areas excluded from the boundary include 4 harbors and a donut hole area around the San Francisco Bay Area, where a sewage discharge pipe is located. Efforts to get the Monterey Bay Sanctuary designated was supported by the local community who opposed oil drilling.

The goals of the Sanctuary are marine resource protection, education, research, and promoting compatible uses. Sanctuary regulations prohibit exploring for oil, gas, or mineral resources and designating new dredged material disposal sites. The Sanctuary regulates discharging or depositing any materials, flying motorized aircraft below 1000 feet along portions of the coastline, altering the seabed, moving, injuring, or possessing historical resources and injuring or harassing marine mammals, turtles, or seabirds.

The Sanctuary works closely with the seventeen research and education institutions in the area. Education and research working groups were jointly formed by these organizations, the chair of each of these working groups sits on the SAC. Recently, the Sanctuary held a workshop to bring these groups together to discuss priorities for education and conservation activities. The Sanctuary has also sponsored symposiums and education events which attract thousand of participants.

Last year, the Sanctuary was granted 27 days of ship time on the MacArthur. Working with the Research Working Group priorities were set for research activities. Local research institutions benefit from the research resources NOAA has available.

Lots of recreational activities occur within the Sanctuary, including kayaking, boating, yachting, and fishing. These activities are encouraged by the Sanctuary.

The Sanctuary is currently developing a water quality protection program with the help of several agencies, organizations, and individuals. Eleven different watersheds drain into the Sanctuary and efforts are being developed to collectively deal with urban runoff and harbor development.

Working with the Coast Guard, the Sanctuary has developed a small vessel grounding plan and participates in oil spill contingency activities.

Sanctuary staff include 14 staff members, 6 are full-time federal employees, 6 are full-time contractors, and 2 are part-time contractors.

A SAC has been in existence for two years. The Council is very active and meets once every month. The SAC and the sanctuary office have developed a cooperative working relationship. The SAC consists of 24 members, 4 non-voting (3 Sanctuary Managers and 1 Estuarine Reserve Manager), eight government seats (NMFS, Coast Guard, Army Corps, CA Coastal Commission, EPA, Fish and Game,

## DRAFT

State Parks, Association of Monterey Bay Area Governance), and 12 non-government seats (Research, Education, Fishing, Diving, Business, Tourism, three at large seats). Approximately \$35,000 was budgeted in 1996 to support the SAC. The SAC has separate letterhead from the Sanctuary and initiates its own correspondence in cooperation with the Sanctuary manager. A SAC Handbook has been developed which contains information on NOAA, bylaws, charter, facts, maps, tables, boundaries, location of resources, permits, MOU's, and protocols.

Mr. Sutcliffe asked what kinds of things should the SAC not do. Mr. Jackson said, the SAC should not represent views of the entire Council without the Council's consent.

Mr. Kaufman inquired about the process for re-election of SAC members. Mr. Jackson explained, SAC members serve three year terms and can be reappointed. Originally, the SAC Charter allowed for two year terms.

Mr. Kaufman wanted to know why Hawaii's SAC charter is different. Mr. Tom explained, Hawaii is still going through the designation process and the SAC charter was developed to be responsive to that process.

Mr. Kaufman also wanted to know what the SAC's role is in co-managing the Sanctuary. Mr. Jackson discussed the issue of shark chumming. After hearing from a variety of groups on the topic of shark chumming, the SAC researched the issue and voted to recommend that the Sanctuary prohibit shark chumming in the Sanctuary, the Sanctuary agreed and proposed regulations to prohibit shark chumming in the Monterey Bay NMS. Another example was the ATOC issue, the SAC did not reach a final decision on ATOC so there was no final recommendation to the Sanctuary.

SAC working groups for research, conservation, and education meet regularly for half day meetings as often as needed with approval from the Sanctuary Manager. Working groups do not receive compensation for related expenses.

Ms. Beth Goodoni pointed out that in Hawaii SAC members are separated by islands. Mr. Jacobs said, SAC members in Olympic Coast work by e-mail. The Olympic Coast SAC focuses on strategies to implement the Sanctuary and does not get involved in budget or personnel issues. According to Mr. Jackson, the Monterey Bay SAC really helps to provide a better perspective on how other groups feel about issues affecting the Sanctuary. During the first year all the SAC did was focus on issues, during the next year the focus shifted to community outreach efforts. SAC members act as Sanctuary ambassadors and conduct outreach efforts with videos and slide shows provided by the Sanctuary. The SAC helped form a non-profit Sanctuary foundation to raise monies for the Sanctuary. The Sanctuary provides a forum to address ocean related issues, not all issues the SAC gets involved in are Sanctuary issues, kelp harvesting, a non-sanctuary issue (exempt from regulations) was recently discussed by the SAC. The Sanctuary sought guidance from the Fish

## DRAFT

and Wildlife Service and a presentation was provided to the SAC.

Ms. Goodoni asked if researchers have problems conducting research in the Sanctuary. Mr. Jackson explained that initially, when the Sanctuary was designated, researchers were required to apply for a research permit only if the research activity violated a Sanctuary regulation. The requirements have eased since the Sanctuary has been designated and efforts are being made to streamline the permitting process.

Mr. Kaufman asked how Hawaii could avoid regulating an activity which was not meant to be regulated. Mr. Jackson spoke about a recent issue that Monterey Bay is currently addressing. Under current Sanctuary regulations, jade collecting is prohibited in the Sanctuary, efforts are being made to modify the current regulations to allow jade collecting for personal or artistic use. Ms. Hannah Bernard remarked, the significant message is that regulations are not forever and there is a process to change the regulations if they are not working.

Dr. Pai asked how the designation process worked in both the Olympic Coast and Monterey Bay Sanctuaries. Mr. Jackson described the Monterey Bay designation process. Designation took 17 years and was initiated by the community who wanted to protect the coastline from oil and gas development. The Olympic Coast designation described by Mr. Jacobs as a more traditional designation took 8 years and involved NOAA making a determination that the Olympic Coast contained resources of national significance through an EIS process which was negotiated with the State and the native tribes. Skepticism was voiced by Olympic peninsula residents who made living from harvesting natural resources (timber, salmon). The SAC has helped to alleviate fears and these enterprises are realizing the Sanctuary is not a threat.

Ms. Goodoni asked if there has been any measurement of economic benefit from the Sanctuary. Mr. Jackson said, no measurements of economic benefits of the Sanctuary have been made in the Monterey Bay NMS, although he noted that the City of Santa Cruz is looking at promoting itself as the gateway to the Monterey Bay NMS. He also mentioned that the Monterey Bay NMS has been approved to receive a private donation of \$650,000 for enforcement and education. Mr. Jacobs has a graduate student studying economic benefits of partnerships with the Olympic Coast NMS.

Dr. Pai asked what current Sanctuary activities are occurring now that wasn't happening before. Mr. Jacobs replied, Olympic is developing better materials for naturalist training, tourist materials, skipper training and is looking at a possible use of sanctuary logo as sanctuary enforcement of sanctioned programs. The Sanctuary has also helped to bring groups together who had not been working with each other

Mr. Adam Pack asked if speed of vessels were regulated. Mr. Jackson said, only personal water craft as described in the regulations are restricted. These operating zones are being marked for the uses.



## DRAFT

Ms. Goodoni asked if any penalties have been assessed under the thrillcraft regulation. Mr. Jackson replied, no penalties have ever been applied. Mr. Sutcliffe asked how the zones were set up. Mr. Jackson answered, zones were set up as part of the designation process.

Ms. Bernard asked about funding levels. Monterey: \$940,000, Olympic: \$600,000.

Ms. Goodoni asked about user fees. Mr. Jackson replied, there are no user fees in any Sanctuary that he is aware of.

### Review of Washington D.C. Trip -- Greg Kaufman

During the lunch break, Mr. Greg Kaufman provided a report of his trip to Washington, D.C. He informed the Council that he received an invitation to attend a meeting with Dr. D. James Baker, NOAA Administrator in May 1996. The invitation was extended by the National Ocean Service and the Office of Ocean and Coastal Resource Management. The invitation explained that the meeting was part of a continuing effort to improve communications and the exchange of information between NOAA and its constituents. Mr. Kaufman told the Council, that after talking with both Brady Phillips and Allen Tom who knew very little about the meeting, he called Gary Magnuson, National Ocean Service Constituent Affairs to get more information about the planned meeting. After much consideration, Mr. Kaufman made a decision to attend the meeting at his own expense. Highlights of the meeting included discussion about the reauthorization of the National Marine Sanctuaries Act and increasing funding for the program through direct appropriations by Congress and fundraising opportunities. Mr. Kaufman also mentioned that both he and Jim Coon had an opportunity to meet with Hawaii Congressional delegation and with Sanctuary staff in D.C.

Members of the SAC expressed concern over whether it is appropriate for the SAC Chair to represent views of the entire SAC. Mr. Kaufman felt the role of SAC members at public meetings is to distribute public information. Dr. Haas saw SAC members as being a conduit of information to political representatives. Ms. Bernard stated that the intent to harass issue represented a personal issue and was not a authorized SAC issue. Members of the SAC expressed general concern over problems in communication and misrepresentation of the SAC on issues. The Council determined that further discussion should be initiated with the Chair.

### Review of OSP meetings in Washington D.C. -- Dr. Gregory Pai

Dr. Pai began with a summary of the meetings OSP had with Sanctuary Staff at D.C. and with Hawaii's Congressional delegation. The following is a overview of issues which were discussed with NOAA and Hawaii's Congressional delegation.

## DRAFT

1) OSP: Any changes to sanctuary regulations require Governor approval and mandatory review of management plan every five years.

NOAA: The five-year review is a requirement of the National Marine Sanctuary Act and NOAA will allow the Governor to review and approve any substantive changes made to the management plan before they can take effect in State waters. NOAA does not support the State's suggestion to provide gubernatorial authority to de-designate the Sanctuary at the five year review of the management plan. Hawaii's Congressional delegation indicated it may develop some language to address this issue in the reauthorization of the National Marine Sanctuary Act.

2) OSP: The FEIS needs to reference native Hawaiian issues, particularly submerged lands.

NOAA: Will expand the native Hawaiian section of the FEIS to address sovereignty issues and ceded lands. A framework for bringing that discussion forward needs to be addressed.

3) OSP: No user fees, no new regulations without gubernatorial review and approval.

NOAA: No problem with this provision. NOAA is not proposing mandatory user fees or special use permits in the Hawaii Sanctuary, and will allow the governor to review and approve all new regulations before they can be implemented in State waters. Hawaii's Congressional delegation supports including language in the 1996 reauthorization of the NMSA which would prohibit user fees for Hawaii.

4) OSP: Sanctuary would not interfere in State's authority to impose fees

NOAA: NOAA will not interfere with the State's authority to implement user fees should they decide to pursue such action.

5) OSP: Violation of existing rules be done through pre-arranged penalty schedule.

NOAA: Intends on working with NMFS-Office of Enforcement and Office of General Counsel to develop a penalty schedule specific for the Hawaii Sanctuary.

6) OSP: State agency enforcement be done through MOU, established protocols.

NOAA: NOAA is working with NMFS, DOH, and DLNR to develop MOUs and other coordination mechanisms to clarify permit review and enforcement procedures.

7) OSP: Will seek to increase Hawaii Sanctuary funding to \$900,000

NOAA: NOAA is appropriated funds for the Sanctuary Program by Congress. It supports increases in program funding, however, remains subject to those amounts appropriated by Congress.

## DRAFT

8) OSP: Intent to Harass:

NOAA: This is a NMFS ESA/MMPA regulation and the Sanctuary program cannot universally change or modify this regulation. However, the Sanctuary Program remains committed to facilitating dialogue with Hawaii's marine users, NMFS, and the enforcement officers to improve understanding, compliance, and protection for humpback whales and their habitat.

9) OSP: Nonprofit organization

NOAA: NOAA encourages nonprofit support of the Sanctuary Program and its missions. This is an issue that needs additional discussion by the SAC.

Dr. Nachtigall asked if it would be allowable for this SAC to establish a non-profit foundation. Dr. Pai stated it was his understanding that it would.

10) OSP: State to continue SAC administration and support

NOAA: Not settled yet.

Mr. Tom informed the SAC that the Sanctuary will be contracting a part-time position to help with administering the SAC.

11) OSP: Sanctuary manager will be a Hawaii resident

NOAA: NOAA believes that on-site managers should have local knowledge and insight to be effective managers.

12) OSP: Preferred boundary option

NOAA: NOAA, at this time, is pursuing the preferred boundary option (statewide with exclusions).

Other: Decision to include Kahoolawe will be left up to KIRC, Senator Inouye's office will be working on the language.

Dr. Nachtigall questioned if OSP knew what kind of decision the Governor will make on the Sanctuary?

Dr. Pai informed the Council, OSP has not reported back to the Governor on their trip. Governor is still undecided and remains skeptical. At Executive Planning Council all four Mayors were not supportive of a whale sanctuary. Possible reasons: misinformation, about the Sanctuary, user fees, ATOC, etc. Among state agencies there is no consensus either. Two are in favor of a statewide boundary, two have concerns about increased federal regulatory presence and do not favor a statewide boundary, but are OK with the existing Congressionally designated boundary.

OSP is trying to get the Sanctuary on the agenda for the September 1996 Executive Planning Council Meeting, with possible presentation from OSP and members of the SAC represented. Dr. Pai informed the Council, OSP's activities up

## **DRAFT**

until now has been to allow the Governor to make a positive decision by ensuring that the States interests are protected.

Mr. Kaufman felt the SAC's role is to advise the Sanctuary Manager on management of the Sanctuary. He stated, he doesn't want to waste his time sitting on a Council not knowing if we are going to have a Sanctuary or not. He called for a vote to determine where this body stands on the Sanctuary.

Dr. Walter Haas reported to the Council on a meeting he had with Capt. Robert Mullins (Kauai Mayor Asst.). Capt. Mullins opposed the sanctuary because of fear of NOAA's future actions. Fearful of public's use of NOAA authority against DOD.

Mr. Kaufman told the Council, in Maui, the Maui County Council decided, after receiving testimony, to wait until the FEIS was completed before it would make a decision on the Sanctuary.

Dr. Nachtigall asked if this is a reasonable issue for the SAC, to give a presentation to the Executive Council.

Mr. Chong stated the public needs more information on the issues (Boundary, User fees). No mayor will change their mind to the support of sanctuary unless the constituency is convinced that the sanctuary proposal should be supported.

Dr. June Harrigan-Lum proposed that this group do a series of sanctuary meetings on each island to increase communication with public and answer questions about the issues. Communication to the public is vital. The public, the Mayors, and members of the County Council should be invited.

Mr. Kaufman stated, there is no one proponent for the sanctuary, the SAC needs to be a proponent of the Sanctuary.

Dr. Harrigan-Lum disagreed, the SAC does not have to be a proponent, the discussions can be focused on dealing with discussions over the issues.

Mr. Kaufman stated, ideally it would work better if we can organize members to answer particular questions with which they have expertise.

Dr. Harrigan-Lum explained, people need to be informed about the issues honestly, and the goal of these meetings is to establish communication.

Dr. Nachtigall suggested, a format similar to Dr. Pai's earlier presentation could be followed at these meetings, and members of the SAC could simply report to the public, we had these meetings and this is what happened.

## DRAFT

Mr. Kaufman stated what needs to be done is to target the people who are misinformed. We are dealing with a trust factor, people don't trust the federal government.

Mr. Lennan, stated the FEIS will say no change in regulations unless the Governor approves it, it is possible the Mayors will say they don't trust the Governor either.

Dr. Pai pointed out at the last meeting this body made a decision not to take a position on the Sanctuary. To decide to adopt what Mr. Kaufman is proposing would require a different way of operating and may be contentious. Dr. Harrigan's idea might work better. Senator Inouye and Representative Abercrombie have not told the Governor that they support the sanctuary.

Mr. Sutcliffe stressed that the answers to the issues need to be put on the table so rational decisions can be made. Dr. Haas suggested putting out a printed news article.

Mr. Jacobs noted the Hawaii controversy is very much related to the controversy in N.W. Straits, and is based on the fear of the unknown. He suggested information regarding the process is important because the plan is not yet fully developed.

Mr. Kaufman emphasized, a lot of fears become allied through communication and we need to all go back and talk to our constituents. An effort to communicate to our constituency can be done both singularly or in a group.

Dr. Haas informed the Council that a resolution supporting the Sanctuary was adopted by the Democratic Party at the State convention. Molokai voted as a block against the resolution supporting the sanctuary. Otherwise vote was overwhelming in support.

Mr. Jackson stated, in Monterey Bay the public views the SAC as venue for public input which also helps to ensure the Sanctuary won't do something which may hurt people. He suggested, the Council may want to formulate some common talking points if they decide to go forward with these meetings.

Dr. Pai stated, the SAC's role is important. But not as a proponent, but as a vehicle of promoting greater understanding.

Dr. Harrigan-Lum recommended, the SAC needs look at areas of agreement which can then be communicated to the public. The SAC should meet with the Councils, Mayors separately and develop effective strategies to provide information to the Governor and the public.

Mr. Sutcliffe stated, on Molokai during the public hearings on the Sanctuary,

## **DRAFT**

NOAA did not publicize the meetings well, notices were posted by people who feared federal regulations of local waters and who opposed the Sanctuary.

Ms. Maile Bay proposed two agenda items for the next SAC meeting. 1) Look at role of the SAC. 2) Type of information the SAC should distribute to the public and to constituencies.

Ms. Goodoni agreed with a lot of what had been said by other SAC members. She proposed the SAC do a press release to inform people what has happened and provide an update, introduce the SAC and the issues and inform the public of information meetings. Start out with small meetings.

Mr. Kaufman sees the SAC as co-managers of the sanctuary and watchdogs. The SAC helps keep the Sanctuary "in line and will advocated for the Sanctuary to do the right thing". Wants SAC to identify area of consensus and organize the thoughts of the SAC, analyze the issues and look at how its being dealt with.

Dr. Pai suggested NOAA should pay for a 1-4 page ad with a brief statement about the current status of the sanctuary. Mr. Tom and staff will draft statement for next meeting.

Dr. Harrigan-Lum suggested the SAC develop a communication strategy. Go to the public, solicit their comments.

Mr. Francis Oishi asked if conducting public information meetings is part of the SAC's role. SAC was organized to help the sanctuary with the FEIS.

Mr. Tom stated, NOAA has set a Fall 1996 target date for FEIS. NOAA has incorporated SAC comments. NOAA is working to address Native Hawaiian issues, submerged lands etc.

Mr. Oishi asked, what good would public information meetings be at this time, the public comment period is closed. What if public uses it as a forum to raise issues / concerns that SAC cannot do anything about.

Mr. Kaufman pointed out, the public information meetings are important to let people know that we are looking out for them and if there is any item so onerous in the EIS then we can effect government by avocation for line item veto.

Ms. Bay asked for a motion to add communication issue to next SAC meeting.

Mr. Marc Hodges suggested the SAC deal with this issue promptly and not put it off until August.

Ms. Bay suggested putting communication issue on agenda, settle on consensus issues and how it will communicate with the public.

## **DRAFT**

The SAC voted to add this item to the agenda for the next meeting. Motion was passed.

Dr. Pai summarized the motion which had passed, the SAC will hold its next meeting within 30 days. A draft statement and advertisement will be prepared for the SAC to review by Mr. Tom and staff. Strategy will be prepared in which newspapers ads will be placed including other medias as well.

### Discussion on Alternates -- Mr. Allen Tom

Mr. Tom provided a brief history on the issue of alternates for non-governmental members of the SAC. The SAC had recommended NOAA allow alternates for non-governmental SAC members. After initiating discussions with other Sanctuary Managers and much consideration, NOAA decided non-governmental SAC members would not be allowed alternates. Members were selected based on who members are and who members represent.

Ms. Bay asked if this was a policy decision?

Mr. Tom replied, Yes.

Mr. Jacobs explained the implication this issue has for other SAC's. Olympic Coast dealt with this issue as well. It was decided that alternates don't get the same exposure to all the discussions as the SAC member does. Other issues include limited travel funds available, counter productive "wild card" element. Brings into question the selection process, possible contention.

Ms. Bay asked to be put on record in support of the use of alternates.

Mr. Hodges also asked to be put on record in support of alternates

Ms. Bay felt that a measure can be taken to provide guidelines on the use of alternates.

Mr. Jacobs stated, if a SAC member planned to be absent from a meeting and was concerned with missing a vote, votes in Olympic Coast can be done by proxy.

Mr. Jackson explained in Monterey, an election was recently held to replace a at large SAC member. Over 42 applications were received and the person who was selected went through a vigorous screening process.

Mr. Kaufman asked if the SAC could move to the next agenda item since NOAA already made a decision on the use of alternates.

Dr. Nachtigall asked the SAC if they had any motions to offer on this issue.

## DRAFT

Ms. Bay stated she would be willing to work on other possibilities and would like to form a subcommittee.

Dr. Pai motioned to look at this issue for next time a member is selected maybe an alternative can be selected at the same time too.

### Subcommittee reports

Boundary / Management committees never met, need to elect a chair to head and start meetings.

Regulatory committee did meet and Mr. Kaufman suggested the issue should be tabled until after sanctuary gets finalized then a subcommittee can be formed to look at this issue.

### Next meeting

Friday, June 12, 1996 on Maui at the Kea Lani Hotel, *Pikake Room.*, 9:30 a.m. - 3:30 p.m.

Mr. Kaufman asked if approval of minutes could be placed at top of agenda. Suggested corrected minutes be sent to NOAA.

Mr. Tom stated, comments on the minutes from members of the SAC need to be sent to Hannah Bernard (SAC Secretary). The Secretary's responsibilities are outlined in the SAC charter. According to the charter the Secretary works with the Sanctuary staff to take and distribute the minutes. The Sanctuary staff has been recording and typing the minutes and corrections to the minutes have been submitted to the Sanctuary staff by the SAC secretary.